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6 **UNITED STATES DISTRICT COURT**
7 **DISTRICT OF NEVADA**
8

9 UNITED STATES OF AMERICA,

Case No: 2:20-CR-0018-JCM-EJY

10 Plaintiff,

11 vs.

12 FRANCISCO MARES,

13 Defendant.
14

15 **DEFENDANT'S RESPONSE TO GOVERNMENT'S MOTION FOR A STATUS**
16 **CONFERENCE**
17

18 COMES NOW, Defendant, FRANCISCO MARES, by and through his attorney, ADAM L.
19 GILL, ESQ. and files this response to the government's motion for a status conference in the above-
20 referenced matter.

21 This Motion is made and based upon the following Points and Authorities, the evidence to
22 be adduced at the hearing, and the papers and pleadings on file with this Court.
23

24 DATED this 2nd day of March, 2022.

25 /s/ Adam L. Gill

26 Adam L. Gill, Esq.
Nevada Bar Number 11575
27 723 South 3rd Street
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28 (702) 750-1590

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POINTS AND AUTHORITIES

On or about June 2, 2021, Mr. Mares entered a plea agreement before this Court where he pled guilty to Count 1 of the Indictment of “Conspiracy to Distribute a Controlled Substance – Methamphetamine”. The plea agreement was entered by this Court and the Defendant admitted to the undergoing factual allegations that “beginning from a time unknown, and continuing to on or about October 30, 2019, Mr. Mares and others known and unknown to the United States Attorney’s Office conspired to distribute a mixture and substance containing a detectable amount of methamphetamine in Las Vegas, Nevada”. Further defendant admitted that on “October 23, 2019, and October 29, 2019, he sold 500 grams or more of a mixture and substance containing a detectable amount of methamphetamine to a DEA confidential source”. Moreover, Mr. Mares knew of this unlawful object and purpose and joined with the intent to further the unlawful object and purpose.

The matter was then referred to the probation department so that a presentence report (PSR) may be conducted. The PSR was prepared and distributed to the parties on or about July 16, 2021. In the report Mr. Mares recounts the underlying facts surrounding the offense from his perspective, in pertinent part, Mr. Mares refers to the threats made on Mr. Consuegra-Clemente and his wife and children. *See* PSR, No. 30, pg 8. Counsel for the Defendant thereafter on January 25, 2022 submitted a sentencing memorandum along with a mitigation file. In the mitigation film Mr. Mares once again recounts the circumstances surrounding his arrest to include the aforementioned threats.

On February 25, 2022 the Government filed a motion for a status conference to address the statements of threats made by Mr. Mares in the mitigation film. The government asserts that this provides a basis for the withdrawal of Mr. Mares’s plea. According to Federal Rule of Criminal Procedure 11(b)(3), before the Court can enter a final judgment on a guilty plea, “the court must determine that there is a factual basis for the plea.” Mr. Mares has admitted to the factual basis for the plea and Mr. Mares both in the PSR and the mitigation film recounts the circumstances surrounding his arrest in which he states that a reason for his actions was the perception of the threats against Mr. Conseugra-Clemente and his wife. This does not rise to level as the negate the intent behind the act. Mr. Mares asserts in the film that the perceived threat to his brother in law and his

1 sister was a threat against his family and that although his participation in the crime was to protect
2 his family, he regrets his actions. He indicates that he knew the underlying conduct was illegal, thus
3 Mr. Mares had the requisite intent to further the unlawful purpose of his actions.

4 Based on the foregoing, Counsel respectfully requests the motion for a status conference be
5 denied and opposes the withdrawal of Mr. Mares's plea based on the assertion of threats made,
6 detailed both in the PSR report and mitigation film.

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8 DATED this 2nd day of March, 2022.

9 /s/ Adam L. Gill
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17 **PROOF OF SERVICE**

18 A copy of the foregoing was served upon the parties via Electronic Filing on
19 March 2, 2022.

20 By: /s/ Jasmine Torres
An employee working for Aisen, Gill & Associates